

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Petition for Declaratory Ruling and/or  
Rulemaking Filed by Americatel Corporation

Joint Petition For Rulemaking to Implement  
Mandatory Minimum Customer Account  
Record Exchange Obligations on All Local  
And Interexchange Carriers Filed by  
AT&T Corp., Sprint Corporation, and  
WorldCom, Inc.

CG Docket No. 02-386

**REPLY COMMENTS**

PBT Telecom, Inc. ("PBT"), by its attorneys, hereby submits "reply comments" in response to the initial comments filed by several parties to this proceeding. PBT is a small, rural telephone company that likely would be subjected to any rules adopted by the Commission as a result of these rulemaking requests.

Based on the initial comments, PBT questions whether any rules regarding "Customer Account Record Exchange" ("CARE") need to be imposed on local exchange carriers in order to benefit interexchange carriers in the pursuit of their business undertakings.<sup>1</sup> In addition, if CARE-related regulations are

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<sup>1</sup> See "Comments of Cox Communications, Inc.," dated January 21, 2003, at 9, where it is stated that the functions associated with long distance service that are performed by local service providers are "essentially sales or marketing in nature." Cox asserts that its role in the industry process "does not include serving as an IXC's sales agent."

adopted, they should be tailored to take into account the stature of small rural LECs like PBT. And, finally, PBT must be allowed to recover the costs of complying with any new regulations imposed on it.

Those seeking regulation claim that CARE information is not being provided at all in some instances and, when provided, sometimes is untimely or lacking in quality.<sup>2</sup> They seek a rulemaking with a view toward adoption of “minimum” mandatory CARE rules that would apply to all local exchange carriers.<sup>3</sup> PBT submits that, before the Commission institutes a rulemaking, it needs to be satisfied that a new regulatory regime would serve the public interest. It is evident from the initial comments that current processes work well. Even Joint Petitioners concede as much.<sup>4</sup> Their complaint is directed at “competitive” Local Exchange Carriers (“CLECs”) some of which, they claim, have not been providing adequate CARE information since 1996.<sup>5</sup>

PBT submits that, to justify adoption of a new regulatory program that would impact the *entire* LEC industry, Joint Petitioners must demonstrate that: (1) the CARE information currently being furnished them by *all* LECs is materially deficient; and (2) narrower and less onerous remedies either are unavailable or are impractical. If Joint Petitioners are able to sustain this burden, and can show

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<sup>2</sup> AT&T, Sprint and WorldCom Petition for Rulemaking, dated November 22, 2002 (“Joint Petition”) at 3.

<sup>3</sup> *Id.* at 8.

<sup>4</sup> *Id.* at 3-4. *See, also*, “Comments of Verizon, dated January 21, 2003, at 2, where Verizon states that it has “supported the exchange of CARE information from the very beginning, and there is no claim that Verizon *or any other incumbent local exchange carrier* has failed to do so.” (Emphasis supplied.)

<sup>5</sup> Joint Petition at 3.

that powerful “self-help” remedies available to them still are insufficient,<sup>6</sup> a rulemaking could be considered, although it would represent still another regulatory incursion in these deregulatory times.

And, if the Commission conducts a rulemaking and consequently adopts rules that apply to PBT in connection with the furnishing of CARE information to interexchange carriers, it must determine that PBT is entitled to recover its compliance costs.<sup>7</sup> Thus, whether by a separate charge or as part of its rates for interexchange access service, PBT must be allowed to charge those that are the beneficiaries of the rules.<sup>8</sup> As one party asserted, “[t]here is no free lunch.”<sup>9</sup> PBT concurs; if it is required to serve lunch, it should be allowed to charge the diners.

As some point out, LECs vary greatly in terms of their *ability* to provide the information sought by Joint Petitioners. Some have the systems and personnel

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<sup>6</sup> Joint Petitioners state at 5 that the lack of CARE results in an inability on their part to collect for services provided to users. WorldCom has addressed this problem by denying service to those who subscribe to local exchange service from a LEC that does not provide WorldCom with CARE information suitable to its needs. *See, e.g.*, Teleconnect Tariff FCC No. 3 at Section A-5.C, where it is stated: “... [C]alls may not be placed or received using 10XXX dialing, collect or third party calling conventions whenever ... (iii) the serving Local Exchange Carrier fails to furnish timely or adequate ANI installation and disconnect (CARE) information to the Company. For purposes of this provision, call blocking will occur whenever the Company is unable to recover at least 60 percent of its billable revenues from customers within a Local Exchange Carrier service area during any monthly billing period as the result of unavailable, untimely or inadequate ... CARE information.” WorldCom also denies service when it lacks billing and collection agreements or when no BNA (or inadequate BNA) is furnished. One would assume that so aggressive a “self-help” measure taken by the second largest interexchange carrier would make it very difficult for CLECs to compete successfully when their customers’ or potential customers’ long distance service options were restricted.

<sup>7</sup> *See* Bellsouth “Comments,” dated January 21, 2003, at 4. “[T]he rulemaking proceeding should confine itself to two basic issues: (1) defining the obligations of carriers, and (2) providing for recovery of cost associated with complying with the rules.”

<sup>8</sup> Such charges would be contained in filed tariffs, which would supersede any existing, contrary agreements or understandings with respect to the exchange of CARE information. In effect, if the Commission were to regulate directly the furnishing of CARE information, that information would become like BNA -- subject to Commission regulations and tariffing requirements.

in place, as well as the experiences, to provide the information, while others do not. As pointed out by the National Exchange Carrier Association, “ ... many rural LECs cannot justify the large investment associated with automation” of a process that today is performed manually.<sup>10</sup> And Americatel, which supports the Joint Petitioners regarding presubscribed traffic, states:

“It may well be reasonable for the FCC to give special consideration to rural incumbent local exchange carriers that may not have the resources to implement a mechanized solution ....”<sup>11</sup>

The substantial differences between small, rural common carriers and the larger ILECs is recognized by Creative Support Solutions, when it states:

“[The small, rural] companies do not have the economies of scale afforded the larger carriers. For the most part, their staff is small in number, and much of the staff performs varied functions within their respective organizations. In many instances, the processing of incoming PIC [c]hange orders is a fulltime task, which means that one individual is devoted almost exclusively to the processing and handling of incoming PIC change orders. When the provision of BNA/CARE is added to these functions, the amount of time spent in CARE-related activities becomes even greater. Ultimately, it becomes a significant manpower and, therefore, cost issue in offices that very often have only two or three employees handling all customer service functions.”<sup>12</sup>

Accordingly, several parties recognize that any proposed rules regarding CARE information should be tailored to take into account differences in the size,

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<sup>9</sup> Comments of The Oklahoma Rural Telephone Companies, dated January 21, 2003, at 3.

<sup>10</sup> “Comments of the National Exchange Carrier Association,” dated January 21, 2003, at 3. NECA correctly points out that “[t]he rural independent marketplace is extremely diverse and significantly different from the BOC marketplace today.” (*Id.*) See, also, “Comments of the Small Incumbent Local Exchange Carriers,” dated January 21, 2003, at 4-5; “Comments of the Oklahoma Rural Telephone Companies,” dated January 21, 2003, at 6.

<sup>11</sup> Comments of Americatel Corporation, dated January 21, 2003, at n.4. Significantly, Americatel does not support Joint Petitioners’ proposal insofar as it would apply to local exchange carriers operating in rural markets.

<sup>12</sup> “Comments of Creative Support Solutions,” dated January 21, 2003, at 3-4.

capabilities and experiences of those to whom the rules would apply. And, as well, any proposed rules should not include measures intended to assist IXCs in their marketing. For example, LECs should not be obligated to suffer the burden of having to inform an IXC whenever one of its customers chooses another IXC to provide interexchange service, including the identity of the successor IXC. That information is of no consequence and would only be of value to the IXC, which then could engage in so-called “win-back” marketing efforts directed at the defecting customer.

Consistent with these Reply Comments, the Commission first must satisfy itself that a new regulatory regime is needed and that it would resolve the issues raised by Joint Petitioners. If it finds there is need for regulations governing CARE information and exchange, the Commission should tailor the rules by taking into account the stature of small rural ILECs. Finally, carriers subject to any new rules must be allowed to recover their compliance costs from the beneficiaries of such rules.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

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